

## **REMARKS/ARGUMENTS**

This paper is filed in response to the Office Action mailed January 26, 2007. At that time, claims 1-3, 10, 11, and 13 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by European Patent Number 0572248A1, and claims 4-9, 12, and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over the same reference. Applicants have amended claim 1 and added claims 15 and 16 and hereby respectfully traverse the Examiner's rejections.

### **Rejections under 35 U.S.C. §102(b)**

The Examiner rejected claims 1-3, 10, 11, and 13 under 35 U.S.C. §102(b) as being anticipated by European Patent Number 0572248A1. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (*quoting Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Id.* (*quoting Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Although unnecessary to overcome the present rejection, Applicants have amended claim 1 to be further directed to a process of "aligning a plurality of forms to the first clamshell frame... wherein selective forms each include a core". The Examiner has already recognized in regards to original claims 6-9 that EP 0572248 fails to teach the use of a core as part of a form, as currently required by amended claim 1 and newly added claims 15 and 16. Further, EP 0572248 fails to expressly teach that the specific shape of the frame used to create a wing is clamshell shaped, as required by original claim 1 and newly added claims 15 and 16. Rather, EP 0572248 illustrates and describes a flat shaped wing. See Figs. 3 and 4. Further, EP 0572248 fails to inherently teach clamshell shaped frames, because, although EP 0572248 indicates that

its teachings may be applied to aircraft wings (Col. 1, line 3), not all frames used to form such wings are necessarily clamshell shaped, as required by the legal standard for inherent anticipation. Thus, EP 0572248 fails to teach, expressly or inherently, at least two of the elements required by all independent claims and all claims that depend therefrom.

### **Rejections under 35 U.S.C. §103(a)**

The Examiner rejected claims 4-9, 12, and 14 under 35 U.S.C. 103(a) as being unpatentable over EP 0572248. A determination of obviousness is based on the factual inquiries of: (1) the scope and content of the prior art; (2) the differences between the claims and the prior art; (3) the level of ordinary skill in the pertinent art; and (4) secondary considerations of nonobviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966).

“The legal concept of *prima facie* obviousness is a procedural tool [that] ... allocates who has the burden of going forward with production of evidence in each step of the examination process.” MPEP §2142. A *prima facie* case of obviousness is established only if the Examiner shows that (1) there is some teaching, suggestion, or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference; (2) there is a reasonable expectation of success; and (3) the prior art teaches or suggests all of the claim elements. MPEP §2143.03. Specifically, "Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination." *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577 (Fed. Cir. 1984).

With respect to claims 6-9, the Examiner stated that “the claimed molding tools are well-known in the wing/airfoil art” and that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the claimed molding tools in the process of EP 0572248”. See Office Action at page 3. However, one of skill in the art would have had no motivation to use the claimed form having a core in the process of EP 0572248 because EP 0572248 provides no suggestion or motivation for such combination. Mere hindsight allegations that such combination would produce a more efficient and accurate process are not enough to establish that the claimed process would have been obvious, especially where EP 0572248

teaches away from such a combination. Specifically, EP 0572248 deliberately teaches a process without the use of a form: "It is an object of the present invention to provide an improved apparatus... that is self-supporting, and *which does not require a frame.*" Col. 2, lines 29-33, emphasis added. EP 0572248 teaches away from using frames or forms because they "cause damage to the bags as they are manipulated during insertion and removal from the wing cavities." Col. 2, lines 9-33. Thus, one of ordinary skill in the art at the time the invention was made would not have combined the teachings of EP 0572248 with the use of a form having a core because such teachings are incompatible.

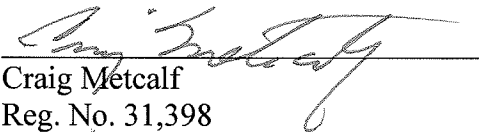
Applicants have amended claim 1 to require, and added claims 15 and 16 to require, a process of "aligning a plurality of forms to the first clamshell frame... wherein selective forms each include a core." Since this element is neither taught nor suggested by EP 0572248, Applicants submit that all independent claims and all claims that depend therefrom therefore are neither anticipated nor obvious in view of EP 0572248.

Applicants submit that all of the objections and rejections of the Office Action have been addressed in the preceding amendments and remarks. With the entry and consideration of the above amendments and remarks, Applicants submit that all of the issues raised in the Office Action have been addressed and resolved. Applicants submit that each of the currently pending claims is patentably distinguishable from the references applied for at least one or more of the reasons discussed above. Accordingly, Applicants respectfully request withdrawal of the rejections expressed in the Office Action and allowance of all pending claims.

Appl. No. 10/726,970  
Amdt. dated April 25, 2007  
Reply to Office Action of January 26, 2007

If there are any remaining issues or if the Examiner has any questions, Applicants' undersigned attorney may be reached at the number listed below. Similarly, if the Examiner believes that a telephone interview may be productive in advancing prosecution of the present application, the Examiner is invited to contact Applicants' undersigned attorney at the number listed below.

Respectfully submitted,

  
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